

Prior law provided for the regulation by the commissioner of insurance of third-party administrators (TPAs) of insurance for life or health insurance coverage or annuities or self-insured plans of providing health and accident protection or workers' compensation coverage, with exceptions for employers, unions, certain types of agents or brokers, trustees, credit union plans, claims adjusters, and managing general agents (MGAs). Further provided for licensing of TPAs by the commissioner and provided that acting as such without a licence shall be subject to a \$5,000 fine per day, with each day considered as a separate violation. Set a licensing fee of \$500 and requires applicants to submit certain information, including business organization documents, bylaws of the organization, names and addresses of personnel, annual financial statements, business and solicitation plans, and other pertinent information as may be required by the commissioner. Provided criteria to deny a license to a TPA.

New law instead defines third-party administrators as those who handle life or health insurance coverage or annuities, or plans of self-insurance providing accident and health protection or self-insurance of workers' compensation coverage, or any individual, partnership, corporation, or other person who contracts directly or indirectly with a group self-insurance fund licensed as a trade or professional association to provide certain services to the fund or its membership.

New law deletes certain exceptions as to who may be considered a third-party administrator, including:

- (1) An insurer which is authorized to transact insurance in this state, but only with respect to a fully insured policy lawfully issued and delivered in and pursuant to the laws of this state or another state.
- (2) An insurer which is authorized to transact insurance in this state and which has capital and surplus of at least \$50 million.
- (3) An adjuster licensed by this state whose activities are limited to the adjustment of claims.

Existing law provides exceptions to the requirement of licensure for a TPA which meets all of the following conditions:

- (1) Principal place of business in another state.
- (2) Not soliciting business as a TPA in this state.
- (3) Having fewer than 100 certificate holders residing in this state.

New law additionally requires that such an administrator be an insurer authorized to transact the business of insurance in this state in order to be exempt from licensure.

New law requires that licensed administrators notify the commissioner within 60 days of any material change affecting its qualification for licensing, to include:

- (1) Changes in control, defined in existing law as the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.
- (2) Amendments to the articles of incorporation.
- (3) Changes in officers and directors.
- (4) Merger or consolidation of the administrator with any person or entity.
- (5) Entering into any contract with an insurer where residents of this state are included.

(6) Use of a trade name in this state.

New law further requires that only licensed administrators post a surety bond or deposit money or securities in trust. Provides that this requirement shall not apply to administrators required to post a surety bond in accordance with existing law in providing services for a group self-insurance fund for workers' compensation insurance. Further requires that the administrators posting a bond under existing law relative to TPAs to provide the commissioner with evidence of the bond's effectiveness on an annual basis no later than 10 days prior to its expiration or anniversary date.

Prior law protects the confidentiality of all information disclosed to the commissioner by an administrator.

New law changes the confidentiality protection from all information, documents, and copies disclosed to the commissioner to terms and conditions of any contract between an administrator and an insurer as well as such other proprietary information as specifically identified by the administrator, except for the identity of contracting parties.

Prior law provided an exception from the requirement of licensure for those persons acting solely as the administrator of one or more bona fide employee benefit plans established and maintained by an employer or employee organization, or both, for which the insurance laws of the state are preempted pursuant to the Employee Retirement Income Security Act of 1974 (ERISA). Further required, however, that those persons so preempted register with the commissioner annually to verify their status.

New law deletes prior law but retains exception for such persons from the definition of a TPA.

Effective August 15, 2009.

(Amends R.S. 22:1641(1), 1651(F), (H), and (I), and 1656; Repeals R.S. 22:1651(G))